IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

MFA.No. 1250 of 1996()

OP.1816/1990 of III ADDL. DISTRICT COURT, ERNAKULAM
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APPELLANT/APPLICANT:

THRESSIA ALIAS THRESSY, D/O.THOMA,
RESIDING AT THARAYIL HOUSE, CHELLANAM P.O.

BY ADV. SRI.N.RAGHURAJ
SRI.M.JAYAKUMAR

RESPONDENTS/OPPOSITE PARTIES:

1.P.M.SALIM,PATTARUMADATHIL, MAMANGALAM,
ERNAKULAM.

2.RAMESH,S/O.BHARGAVAN, CHATHULLIPADAM
HOUSE, EAST OF SAVIPPADY BUS STOP, ELAMAKKARA,
ERNAKULAM.

3.M/S.UNITED INDIA INSURANCE CO. LTD.,
N.H.ROAD, KALOOR, COCHIN-17.

BY ADV. SMT.P.A.REZIYA FOR R3

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO.1250 OF 1996 (F)

Dated this the 6th day of July, 2007

J U D G M E N T

KOSHY,J.

Appellant claimant met with a motor accident due to the negligence of the driver of the vehicle insured by the 3rd respondent, Insurance company. She claimed compensation of Rs.1,50,000/-. Tribunal has granted only Rs.17,615/- and directed the Insurance company to deposit the amount. Only quantum of compensation is disputed in this appeal. She was aged 35 at the time of accident. According to her, she was working as a housemaid and was getting Rs.800/- per month. As a result of the accident petitioner sustained lacerated wound 5cms x 2cms x 1cm over the left medial malleolus and fracture of lower end of tibia and upper end of fibula left. From Ext.A5 discharge summary it is seen that the petitioner sustained lacerated wound over the lower aspect of left leg with a compound comminuted fracture of left tibia and

fibula at the lower end and was managed by debridement of the wounds reduction of the fracture stabilisation with 'K' wires and primary closure. With regard to the treatment expenses against a claim of Rs.50,000/- tribunal has only granted Rs.3,212.43 which was covered by actual medical bills. There were two fractures and no amount was granted for treatment expenses other than actual reimbursement of medical bills. Entire medical expenses is not reflected in the bills. Considering the long treatment etc. for treatment expenses, we award Rs.5,000/- more. Since no disability certificate was produced, no compensation was granted for disability and loss of earning power. She deposed before the court that because of the multiple fracture and injuries, she was unable to do the work of housemaid and she had become complete destitute. The fact that she was a housemaid and was unable to produce the disability certificate cannot be the sole ground for refusing compensation for disability. At the same time since she did not produce the certificate assessing percentage of disability, compensation cannot be granted on a multiplier system. Considering the facts and circumstances of the case, we grant

Rs.10,000/- as compensation for disability, loss of amenities and loss of earning power. So the above Rs.15,000/- should be deposited by the Insurance company over and above the amount granted by the tribunal with 7% simple interest per annum from the date of petition till realisation. Accordingly this appeal is partly allowed.

J.B.KOSHY, JUDGE

K.P.BALACHANDRAN, JUDGE

prp

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO.1250 OF 1996 (F)

J U D G M E N T

6th July, 2007